

CW 13-5729

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

WEINSTEIN, J.

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TASHA BASTON and MICHAEL BASTON,

**VERIFIED COMPLAINT**

Plaintiff,

-against-

ARAMARK CORPORATION and ARAMARK  
FACILITIES MANAGEMENT, LLC,

**PLAINTIFFS DEMAND  
TRIAL BY JURY**

GOLD, M.J.

Defendants.

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Plaintiffs, by their attorneys, SMILEY & SMILEY, LLP, complaining of the defendants, hereinafter allege at all times, upon information and belief, as follows:

**JURISDICTION**

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1332, in that this is an action by and between citizens of different States. The amount in controversy exceeds Seventy Five Thousand (\$75,000.00) Dollars as to the plaintiffs, exclusive of interest and costs.

2. Plaintiffs demand a trial by jury on each of the causes of action pleaded herein.

**THE PARTIES**

3. Plaintiffs, TASHA BASTON and MICHAEL BASTON, reside at 25 Karlston Place, Valley Stream, NY 11580.

4. Defendant, ARAMARK CORPORATION, was and still is a foreign business corporation duly organized and licensed to do business in the State of Pennsylvania and having a place of business and corporate offices at 1101 Market Street, in the County and City of Philadelphia and State of Pennsylvania.



5. Defendant, ARAMARK CORPORATION, is licensed to do business in the State of New York.

6. Defendant, ARAMARK FACILITIES MANAGEMENT, LLC, was and still is a foreign business corporation and subsidiary of defendant, ARAMARK CORPORATION, duly organized and licensed to do business in the State of Pennsylvania and having a place of business and corporate offices at 1101 Market Street, in the County and City of Philadelphia and State of Pennsylvania.

7. Defendant, ARAMARK FACILITIES MANAGEMENT, LLC, is licensed to do business in the State of New York.

**AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF TASHA BASTON**

8. That at all times hereinafter mentioned, on June 4, 2013, the plaintiff, TASHA BASTON, was a student at Nyack College, located at 1 S Blvd., Nyack, NY 10960.

9. On June 4, 2013, defendant, ARAMARK CORPORATION, had a contract with Nyack College to perform all of its contract facilities including management, supervision, control, inspection, maintenance, security and repair work of the campus.

10. On June 4, 2013, defendant, ARAMARK FACILITIES MANAGEMENT, LLC, had a contract with Nyack College to perform all of its contract facilities including management, supervision, control, inspection, maintenance, security and repair work of the campus.

11. On June 4, 2013, defendants' employee, Douglas Walker, was performing all the duties under the contract with the knowledge, permission and consent of his employer, ARAMARK CORPORATION and ARAMARK FACILITIES MANAGEMENT, LLC, either expressed or implied.



12. That on the 4<sup>th</sup> day of June, 2013, at approximately 11:45 a.m., while the plaintiff, TASHA BASTON, was lawfully a student on the premises of Nyack College located at 1 S Blvd., Nyack, NY, a gas explosion did occur, severely damaging the building in which the plaintiff was present and causing her to be catastrophically injured.

13. That at the time and place aforesaid, the defendants negligently performed excavation work; struck an active gas line causing it to rupture; resulting in an explosion which caused catastrophic injuries to plaintiff, TASHA BASTON.

14. The defendants, their agents, servants and/or employees were careless, negligent and reckless in striking an active gas line and causing it to rupture; in willfully and criminally covering up the damage created, thereby placing the public in danger; in failing and omitting to perform excavation work in accordance with County and State regulations; in failing and omitting to keep a proper lookout and to be reasonably alert, although due care and caution on the part of the defendants' employee would have and should have avoided the occurrence; in causing and permitting an unsafe and hazardous condition to exist; in failing to report said rupture to the appropriate parties; in covering up the breach in the gas line and leaving the premises in a dangerous condition; in failing to warn the public of the imminent danger of being in the area of an open gas line; in failing to contact the proper utility company and/or authority to turn off the flow of gas to the area; in failing to contact the proper utility company and/or authority to repair the damage caused by the defendants' employee; in causing and permitting the plaintiff, TASHA BASTON, to enter into a position of danger; in subjecting said plaintiff to unusual and unnecessary hazards and dangers; in failing to employ adequate and sufficient help to properly inspect, maintain or repair the aforementioned premises; in creating a trap, in creating a nuisance; in causing and permitting the



condition that brought about the injury to the plaintiff; in failing to observe the safety rules, regulations, statutes, promulgations and ordinances of the County of Rockland and State of New York.

15. As a result of the negligence, carelessness and recklessness of the defendants, their agents, servants and/or employees, the plaintiff, TASHA BASTON, was seriously and permanently injured, and was caused to suffer and will continue to suffer great physical and mental pain.

16. By reason of the foregoing, plaintiff has been damaged in this cause of action for personal injuries in the amount of TEN MILLION (\$10,000,000.00) DOLLARS.

**AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF MICHAEL BASTON**

17. Plaintiffs repeat, reiterate and reallege each and every allegation of the complaint marked "1" through "16" with the same force and effect as if more fully set forth herein at length.

18. Plaintiff, MICHAEL BASTON, was and still is the husband of the plaintiff, TASHA BASTON, and as such husband, then and ever since, lived and cohabited with plaintiff, TASHA BASTON.

19. By reason of the foregoing, plaintiff, MICHAEL BASTON, has been deprived of the services, society, companionship and consortium of his wife.

20. By reason of the foregoing, the plaintiff, MICHAEL BASTON, has been damaged in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS.

**AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF BOTH PLAINTIFFS**

21. Plaintiffs repeat, reiterate and reallege each and every allegation of the complaint marked "1" through "20" with the same force and effect as if more fully set forth herein at length.

22. Due to the defendants' outrageous conduct and reckless indifference to the rights of



others and their intentional and wanton violation of those rights, the plaintiffs, TASHA BASTON and MICHAEL BASTON, seek exemplary and punitive damages.

23. The defendants' employee, Douglas Walker, without proper authorization and against County and State regulations, did use a backhoe to dig a hole on the premises near a gas line without supervision or permit from the local utility company; in doing so, Douglas Walker, did strike the gas line and rupture it; Douglas Walker then negligently and criminally covered up his error and failed to advise any authority of this potential for disaster; and his failure to repair the damage caused the gas explosion which blew up the building in which plaintiff was a student and caused her to be severely injured.

24. Douglas Walker, defendants' employee, was arrested and charged with Assault in the Third Degree and Reckless Endangerment in the Second Degree.

25. By reason of the foregoing, the plaintiffs, TASHA BASTON and MICHAEL BASTON, seek exemplary and punitive damages in the sum of THIRTY MILLION (\$30,000,000.00) DOLLARS.

WHEREFORE, plaintiffs demand judgment against the defendants, AMARACK CORPORATION and AMARACK FACILITIES MANAGEMENT, LLC on the First Cause of Action in the sum of TEN MILLION (\$10,000,000.00) DOLLARS, on the Second Cause of Action in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS, and on the Third Cause of Action in the sum of THIRTY MILLION (\$30,000,000.00) DOLLARS together with interest, costs and disbursements of this action.

Dated: New York, New York  
July 23, 2013



Yours, etc.,

SMILEY & SMILEY, LLP  
Attorneys for Plaintiffs  
60 East 42nd Street, Suite 950  
New York, New York 10165  
212-986-2022

By:

ANDREW J. SMILEY (AJS/2924)



### **INDIVIDUAL VERIFICATION**

STATE OF NEW YORK )  
 )SS:  
COUNTY OF NEW YORK)

MICHAEL BASTON and TASHA BASTON, being sworn say that we are the plaintiffs in the action herein; we have read the annexed SUMMONS and COMPLAINT and know the contents thereof; that the same is true of our own knowledge, except matters alleged upon information and belief, and that as to those matters we believe them to be true.

Dated: 7/24/13

~ MARK

MICHAEL BASTON

Jasha Bastow

**TASHA BASTON**

Sworn to before me  
the 24<sup>th</sup> day of July, 2013

Jayne Weinstein  
NOTARY PUBLIC

JOYCE WEINSTEIN  
Notary Public, State of New York  
No. 01WE485853  
Qualified in Nassau County  
Commission Expires May 5, 2014

